

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 686

BY REVENUE AND TAXATION COMMITTEE

AN ACT

RELATING TO INCOME TAXATION; TO PROVIDE A SHORT TITLE; TO PROVIDE LEGISLATIVE INTENT; AMENDING TITLE 63, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 47, TITLE 63, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE A VENTURE CAPITAL TAX CREDIT, TO PROVIDE LIMITATIONS AND OTHER PROVISIONS ON CREDITS AGAINST INCOME TAXES AND TO PROVIDE FOR ADMINISTRATION; DECLARING AN EMERGENCY AND PROVIDING RETROACTIVE APPLICATION AND A SUNSET DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. SHORT TITLE. This act may be known and shall be cited as "The Idaho Small Business Venture Capital Investment and Jobs Act."

SECTION 2. LEGISLATIVE INTENT. The Legislature finds that the economy of the state is enhanced when venture capital is available to start-up small businesses. Therefore, it is the intent of the Legislature to provide for the creation of a Venture Capital Tax Credit to promote the availability of institutional funds for venture capital in the state for small businesses.

SECTION 3. That Title 63, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 47, Title 63, Idaho Code, and to read as follows:

CHAPTER 47

VENTURE CAPITAL FOR SMALL BUSINESS

63-4701. DEFINITIONS. As used in this chapter:

(1) "Commission" means the Idaho state tax commission.

(2) "Equity capital" means capital invested in common or preferred stock, royalty rights, limited partnership interests, limited liability company interests and any other securities or rights that evidence ownership in private business.

(3) "Near equity capital" means capital invested in unsecured, under-scored, subordinated or convertible loans or debt securities.

(4) "Person" means an individual, corporation, partnership or other lawfully organized entity.

(5) "Venture capital tax credit" means a tax credit that is allowed or transferred pursuant to this chapter.

63-4702. VENTURE CAPITAL TAX CREDIT. There shall be allowable as a credit against taxes imposed pursuant to the Idaho income tax act the venture capital tax credit. The amount of the venture capital tax credit shall be fifty percent (50%) of the Idaho taxable income from capital gains earned on venture capital provided to Idaho businesses of twenty (20) employees or less that was provided from January 1, 2010, until December 31, 2014.

1 The venture capital tax credit shall be available to taxpayers who provide
 2 equity capital to new business with twenty (20) employees or less at the time
 3 of the investment.

4 63-4703. LIMITATIONS AND OTHER PROVISIONS ON CREDITS AGAINST INCOME
 5 TAXES. (1) In addition to other needed rules, the state tax commission may
 6 promulgate rules prescribing:

7 (a) In the case of S corporations, limited liability companies, part-
 8 nerships, trusts or estates, a method of attributing a credit pursuant
 9 to this chapter to the shareholders, partners or beneficiaries in pro-
 10 portion to their share of the income from the S corporation, limited li-
 11 ability company, partnership, trust or estate; and

12 (b) The method by which the carryover of credits and the duty to recap-
 13 ture credits shall survive and be transferred in the event of reorgani-
 14 zations, mergers or liquidations.

15 (2) In the case of a unitary group of corporations filing a combined
 16 report pursuant to section 63-3027(t), Idaho Code, credits against income
 17 tax provided by section 63-4702, Idaho Code, earned by one (1) member of the
 18 group but not used by that member may be used by another member of the group,
 19 subject to the limitation in subsection (3) of this section, instead of car-
 20 ried over. For a combined group of corporations, credit carried forward may
 21 be claimed by any member of the group unless the member or members who earned
 22 the credit are no longer included in the combined group.

23 (3) The total of all credits allowed by this chapter, together with
 24 any credits carried forward under subsection (4) of this section shall not
 25 exceed the amount of tax due under sections 63-3024, 63-3025 and 63-3025A,
 26 Idaho Code, after allowance for all other credits permitted by this chapter
 27 and the Idaho income tax act.

28 (4) If the credits exceed the limitation under subsection (3) of this
 29 section, the excess amount may be carried forward for a period that does not
 30 exceed the next fourteen (14) taxable years in the case of credits allowed by
 31 section 63-4702, Idaho Code.

32 63-4704. ADMINISTRATION. The commission shall enforce the provisions
 33 of this chapter and may prescribe, adopt and enforce reasonable rules re-
 34 lating to the administration and enforcement of those provisions, including
 35 the promulgation of rules relating to information necessary to certify that
 36 the qualifying criteria of this chapter have been or will be met. For the
 37 purpose of carrying out its duties to enforce or administer the provisions
 38 of this chapter, the commission shall have the powers and duties provided
 39 by sections 63-3038, 63-3039, 63-3042 through 63-3068, 63-3071 and 63-3074
 40 through 63-3078, Idaho Code.

41 SECTION 4. An emergency existing therefor, which emergency is hereby
 42 declared to exist, this act shall be in full force and effect on and after
 43 its passage and approval, and retroactively to January 1, 2010, and shall be
 44 null, void and of no force and effect on and after January 1, 2015.